

(S. B. 1106)

(No. 25-2015)

(Approved February 27, 2015)

AN ACT

To amend paragraph (1) of subsection (a) of Section 5 of Act No. 20-2014, known as the “Puerto Rico Capital Reinvestment Act”; eliminate clause (iii) of subparagraph (D), and add a subparagraph (H) to paragraph (10) of subsection (b) of Section 1034.04, and amend paragraph (6) of subsection (e) of Section 1082.02 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” in order to make technical amendments, clarify the nature of the debt that is eligible for payoff, the tax basis, and the ownership period of the eligible property thereunder.

STATEMENT OF MOTIVES

On January 24, 2014, the Governor of the Commonwealth of Puerto Rico signed Act No. 20-2014 into law. Said Act was designed for the purpose of freeing the capital of successful business through provisions relating to the recognition of gains or losses and real estate investment trusts. This Legislative Assembly deems it necessary to make certain amendments of form to Act No. 20-2014.

Likewise, it deems it appropriate to clarify the legislative intent regarding the tax basis of properties benefiting from the provisions of Act No. 20-2014. In this manner, said Act is improved thus becoming a better tool for economic development and job creation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Paragraph (1) of subsection (a) of Section 5 of Act No. 20-2014, is hereby amended to read as follows:

“Section 5.- Promotion of Investment Trusts.-

(a) The Department of Economic Development and Commerce (hereinafter, “the Department”) is hereby entrusted with the responsibility of promoting in the Commonwealth of Puerto Rico and abroad:

(1) the provisions of paragraph (10) of subsection (b) of Section 1034.04 of Act No. 1-2011, as amended, to the extent that they allow business capital to be freed in order to be invested in activities that foster the economic development of Puerto Rico;

(2) ...

(3) ...

(b) ...”

Section 2.- Clause (iii) of subparagraph (D) is hereby eliminated, and a new subparagraph (H) is hereby added to paragraph (10) of subsection (b) of Section 1034.04 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” to read as follows:

“Section 1034.04.- ...

(a) ...

...

(b) ...

(1) ...

...

(10) ...

(A) ...

...

(D) Proceeds from the Transaction.- For purposes of this paragraph (10) of subsection (b) of this Section, proceeds from the sale, assignment, exchange, or transfer of eligible property shall be:

(i) the total amount of cash realized in such transaction; minus

(ii) the amount of the debt secured by the eligible property and paid within thirty (30) days following the transaction;

...

(H) Basis and Period of Ownership of New Property Acquired.- When the acquisition or construction of new property does not result, under this paragraph (10), in recognized gain the adjusted basis of the new property shall be reduced by the gain not recognized in accordance with this paragraph. The ownership period for purposes of this Subtitle shall include the period during which the sold, assigned, exchanged, or transferred property subject to the provisions of this paragraph (10) was possessed.”

Section 3.- Paragraph (6) of subsection (e) of Section 1082.02 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” is hereby amended to read as follows:

“Section 1082.02.- ...

(a) ...

...

(e) ...

(1) ...

...

(6) Other Sales that are not a Prohibited Transaction.- Notwithstanding the provisions of this Section, the sale of a property that is a real estate asset, as defined in Section 1082.01(c)(7)(B), shall not be considered a 'prohibited transaction' for purposes of paragraph (1), if the total amount realized from such sale is used for the acquisition of other real property within a term not to exceed twenty-four (24) months, or for the construction of real property, whose construction begins within a period not to exceed thirty-six (36) months and has been previously notified to the Department of the Treasury. Provided, that the trust must show to the satisfaction of the Secretary that the construction:

(A) ...

(B) ...

(f) ...”

Section 4.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 25-2015 (S. B. 1106)** of the **5th Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend paragraph (1) of subsection (a) of Section 5 of Act No. 20-2014, known as the "Puerto Rico Capital Reinvestment Act"; eliminate clause (iii) of subparagraph (D), and add a subparagraph (H) to paragraph (10) of subsection (b) of Section 1034.04, and amend paragraph (6) of subsection (e) of Section 1082.02 of Act No. 1-2011, as amended, known as the "Puerto Rico Internal Revenue Code of 2011," in order to make technical amendments, clarify the nature of the debt that is eligible for payoff, the tax basis, and the ownership period of the eligible property thereunder.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 18th day of September, 2015.

Juan Luis Martínez Martínez
Director